

State of New York Court of Appeals

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 131 SSM 20
Paul Viselli et al.,
Appellants,
v.
The Riverbay Corporation,
Respondent.

Submitted by Stephen C. Glasser, for appellants.
Submitted by Vanessa M. Corchia, for respondent.

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On review of submissions pursuant to section 500.11 of the Rules, order modified, without costs, by denying defendant's motion for summary judgment as to the General Municipal Law § 205-a cause of action and, as so modified, affirmed. With respect to the General Municipal Law § 205-a cause of action, defendant's submissions of a certificate of occupancy and an expert affidavit that did not sufficiently respond to plaintiffs' General Municipal Law § 205-a claim were insufficient, without more, to meet its prima facie burden as the party moving for summary judgment (see Powers v 31 E 31 LLC, 24 NY3d 84, 93 [2014]). We have considered plaintiffs' remaining arguments and find them to be without merit. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided September 6, 2018